

5703-1-05

Certification of payment of taxes for purposes of dissolution of corporate charter or surrender of license.

- (A) Domestic corporations, foreign corporations, and those nonprofit corporations organized pursuant to Chapter 1729. of the Revised Code, or organized or operating in a manner similar to that authorized by Chapter 1729. of the Revised Code pursuant to the law of another state or country, which desire to dissolve their charter or surrender their license to transact business in this state must furnish the secretary of state with the receipts, certificates, or other evidence enumerated in division (H) of section 1701.86, division (G) of section 1702.47, division (C) or (D) of section 1703.17, or division (H) or section 1729.55 of the Revised Code.
- (B) In the case of an organized-for-profit domestic corporation filing for a certificate of dissolution or merging, consolidating, or converting into a surviving or new entity that is not a foreign or domestic corporation that is licensed to transact business in Ohio, ~~the following must be obtained from the department of taxation prior to filing for dissolution, merger, consolidation, or conversion with the secretary of state, the~~ corporation must:
- (1) Obtain from the department of taxation a~~A~~ certificate of tax clearance showing that ~~the corporation has paid all taxes administered by and required to be paid to the tax commissioner imposed under the laws of this state that are or will be due from the corporation on the date of the dissolution, merger, consolidation, or conversion~~ such filing have been paid; or
 - (2) Obtain a~~A~~ certificate or other evidence indicating that the department of taxation has received an adequate guarantee for the payment of all taxes administered and collected by and required to be paid to the tax commissioner that are or will be due on the date of ~~the dissolution, merger, consolidation, or conversion~~ such filing.
- (C) In the case of an organized not-for-profit domestic corporation filing for a certificate of dissolution or merging, consolidating, or converting into a surviving or new entity that is not a foreign or domestic corporation that is licensed to transact business in Ohio, prior to filing for dissolution, merger, consolidation, or conversion with the secretary of state, the corporation must:
- (1) Obtain from the department of taxation a certificate of tax clearance showing that all taxes imposed under the laws of this state that are or will be due from the corporation on the date of such filing have been paid or that such payment has been adequately guaranteed; or

- (2) Notify the department of taxation in writing of the scheduled effective date of dissolution, merger, consolidation, or conversion and acknowledge in writing the applicability of section 1702.55 of the Revised Code.
- (D) In the case of an organized-for-profit or not-for-profit foreign corporation licensed to transact business in Ohio filing for a certificate of dissolution or merging, consolidating, or converting into a surviving or new entity that is not a foreign or domestic corporation that is licensed to transact business in Ohio, prior to filing for dissolution, merger, consolidation, or conversion with the secretary of state, the foreign corporation must:
- (1) Obtain from the department of taxation a certificate of tax clearance showing that all franchise, sales, use, and highway use taxes accruing up to the date of such filing have been paid or that such payment has been adequately guaranteed; or
 - (2) Notify the department of taxation in writing of the scheduled date of filing the certificate of surrender, merger, consolidation, or conversion and acknowledge in writing that such filing does not relieve the foreign corporation of liability, if any, for payment of all franchise, sales, use, and highway use taxes accruing up to the date of filing.
- (E) In the case of a cooperative association organized pursuant to Chapter 1729. of the Revised Code or organized or operating in a manner similar to that authorized by Chapter 1729. of the Revised Code pursuant to the law of another state or country licensed to transact business in Ohio, prior to filing a certificate of dissolution with the secretary of state, the association must:
- (1) Obtain from the department of taxation a certificate of tax clearance showing that all franchise, sales, use, and highway use taxes accruing up to the date of such filing have been paid or that such payment has been adequately guaranteed; or
 - (2) Notify the department of taxation in writing of the scheduled date of filing of the certificate of dissolution and acknowledge in writing the applicability of section 1729.25 of the Revised Code.
- (F) Form no. D-5, "Notification of Dissolution or Surrender," is prescribed by the tax commissioner for the purpose of obtaining a certificate of tax clearance indicating that the taxes administered by the tax commissioner have been paid or an adequate guarantee that such taxes will be paid has been received by the department, and to satisfy ~~the notification requirements contained in~~ paragraphs (C)(2), (D)(2), and (E)(2) of this rule. Corporations desiring to file a certificate of dissolution, merger, consolidation, or conversion, as described in this rule, ~~must~~ should submit a completed form no. D-5 to the department of taxation at least thirty days prior to

such filing, ~~with allowance for at least thirty days for processing if a certificate of tax clearance is required.~~ To avoid delay in receiving a certificate of tax clearance, any delinquent tax returns or reports should accompany the form no. D-5 together with a certified check or money order in payment for each of the taxes due thereon. Failure to initially submit all necessary information, tax returns, and/or payments may result in tax audits and will delay issuance of the desired certificate.

- (G) For the purpose of guaranteeing the payment of any taxes which may be due, either a cash bond or surety bond issued by a bonding agency licensed to do business in Ohio may be posted with the ~~tax~~ commissioner by the applicant. The ~~amount shall be determined by the tax commissioner~~ will determine the amount. Such bond ~~shall remain~~ remains in force until all taxes have been paid, whereupon the commissioner will provide ~~a written notice to that effect shall be provided by the tax commissioner.~~
- (H) Upon determining that all taxes have been paid or adequately guaranteed, the ~~tax~~ commissioner will issue a certificate of tax clearance to the applicant. Failure to pay or adequately guarantee any of these taxes will prevent issuance of this certificate.
- (I) It is the responsibility of the applicant to obtain a personal property tax release certificate from the treasurer of each county in which the applicant had taxable personal property. It is the responsibility of the county officials to determine that all personal property taxes have been paid.
- (J) Form no. D-5, "Notification of Dissolution or Surrender," revised ~~April 2017~~ May 2021 and located on the department's website, is incorporated in this rule by reference.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under:	119
Statutory Authority:	5703.05
Rule Amplifies:	1782.433, 1782.4310, 1701.86, 1702.47, 1703.17, 1729.55, 1701.81, 1701.811, 1701.79, 1702.43, 1702.462, 1705.38, 1705.381, 1729.27, 1775.55, 1775.47, 1776.70, 1776.74
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